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CHIEF CLERK'S OFFICE

ICC Docket No. 00-0475

Petition for Approval of NPA Relief Plan
for the 815 NPA

GOVERNMENT AND CONSUMER INTERVENORS
MOTION TO OBTAIN ACCESS TO TELEPHONE NUMBER UTILIZATION DATA

The Citizens Utility Board ("CUB"), through its attorney; the People of the State of Illinois, *ex rel.* James E. Ryan, Attorney General of the State of Illinois; and the City of Chicago, by its attorney, Mara S. Georges, Corporation Counsel ("Government and Consumer Intervenors" or "GCI"); hereby move that the Illinois Commerce Commission ("ICC") grant them access to telephone number utilization and annual forecast data filed by all wireline and wireless carriers serving the 815 NPA with the North American Numbering Plan Administrator ("NANPA"), NeuStar, Inc., pursuant to the March, 2000 Numbering Resource Optimization Order¹ ("NRO Order") recently issued by the Federal Communications Commission ("FCC").

Specifically, GCI requests that the ICC provide the Citizens Utility Board, under the provisions of the attached Protective Order, with the semi-annual thousand-block utilization and forecast data for the 815 NPA, and any backup NPAs created as a result of this docket, that carriers are required under the NRO Order to provide to the NANPA on or before September 15, 2000, and on or before February 1 and August 1 of subsequent years. In addition, GCI requests that the ICC obtain from the NANPA and

¹ *In the Matter of Number Resource Optimization*, FCC Docket No. 00-104, Report and Order and Further Notice of Proposed Rulemaking ("NRO Order"), released March 31, 2000, par. 67.

the Number Pooling Administrator, and provide to CUB, information regarding carrier applications for NXXs (blocks of 10,000 phone numbers) or thousand-blocks.

Specifically, the ICC should request that NANPA and the Number Pooling Administrator notify this Commission any time a carrier requests numbering resources for the 815 NPA, and any backup NPAs created as a result of this docket.

In support of this Motion, GCI states as follows:

1. In its Numbering Resource Optimization Order ("NRO Order") issued last March, the FCC, among other conclusions, ruled that all wireline and wireless carriers must forward telephone number utilization data to the NANPA, NeuStar twice a year. In doing so, the FCC explained why such a requirement is critical to the task of protecting the telephone number supply:

We believe that monitoring individual carriers' use of numbering resources also is necessary to ensure that numbering resources are efficiently used and that the NANP is not prematurely exhausted. More consistent, accurate, and complete reporting of historical and forecast data will serve multiple purposes. First, it will allow the NANPA to develop a comprehensive data base on numbering resource demand, allocation, and use, thereby permitting it to accumulate a complete inventory of all numbering resources allocated to U.S. telecommunications service providers. These data are critical to the accurate forecasting of NANP and NPA exhaust. Second, it will deter carriers from requesting and holding excessive quantities of numbering resources for which they have no immediate need. Third, it will facilitate this Commission's ability to formulate appropriate national policy on numbering resource optimization by providing a complete picture of how numbering resources are being used in all markets. Finally, it will provide the states, which have authority to conduct area code relief, location-specific data that will enable them to make appropriate decisions on such matters.

NRO Order at par. 37.

2. Under the FCC's Report and Order all carriers except rural carriers are required to report utilization of phone numbers in five categories of usage: numbers assigned to customers; intermediate numbers used by resellers; numbers reserved for customers, numbers aging after disconnection; and administrative numbers used for internal functions. NRO Order at pars. 14-35. In addition, all carriers are required to provide five year, year-by-year forecasts differentiated between (1) resources necessary for growth within areas already being served and (2) resources needed to expand a carrier's service territory. NRO Order at par. 57.
3. In its Petition initiating this docket, NeuStar alleged that carrier-supplied forecasts point to the exhaust of the 815 NPA by the second quarter of 2002. NeuStar Petition at 3. While this forecast suggests that exhaust of the 815 NPA is imminent, the industry's prior forecasts have been proven wrong on many previous occasions when predicting exhaust of Chicago-area NPAs. The industry's inability to develop a reliable forecasting methodology with which the ICC and the public can reliably be informed of exhaust in various NPAs points to the need for closer scrutiny of the carrier-supplied forecasts and number utilization data. GCI seeks access to the number utilization and forecast data filed by carriers serving the 815 NPA, and any backup overlay created as a result of this docket, in order to determine: (1) whether the supply of telephone numbers serving the 815 NPA at issue is indeed nearing exhaust; as represented in the Petition of the NANPA that initiated this docket; (2) whether carriers are

complying with number conservation requirements instituted in the FCC's NRO Order; (3) whether individual carriers are holding on to unused NXX codes for periods longer than permitted by the FCC's NRO Order; and (4) how long the numbering supply can be expected to last into the future.

4. The FCC's NRO Order concludes that disaggregated, carrier-specific forecast and utilization data should be treated as confidential and should be exempt from public disclosure. NRO Order at par. 78. Significant, too, is the FCC's conclusion that "state commissions may require access to this data to effectively carry out number administration duties." Id. at par. 80. In doing so, the FCC specifically recognized that some states already receive confidential data from carriers and have conducted utilization studies on their own. Accordingly, the FCC ruled that states ability to carry out the FCC-delegation of authority to require more efficient management of thousands blocks and to implement mandatory thousands block number pooling would be hampered if they are not allowed access to carrier forecast and utilization information. Id. at par. 81. Significantly, the FCC declined to adopt the carrier-promoted restriction that would require state commissions to receive data only where there exists a legally enforceable confidentiality agreement in place. Id. at par. 80. In addition, the FCC indicated its willingness to work with the states "to enable them to obtain access to such information in a manner that addresses the states need for this information and also protects the confidential nature of the carrier's sensitive

information. “ Id. at par. 82.

5. Because the FCC's NRO Order significantly expanded state commissions' role in monitoring carrier utilization of numbering resources, and strengthened some of the conservation measures already in place in Illinois, much monitoring labor awaits the Commission. For example, the NRO Order mandates that all service providers assign all available telephone numbers within an opened thousands-block before assigning telephone numbers from an uncontaminated thousands-block, unless the available numbers in the opened thousands-block are not sufficient to meet a specific customer request. NRO Order at 244. This requirement, pursuant to the Order, applies to a carrier's existing numbering resources as well as any new numbering resources it obtains in the future. Id. Both wireline and wireless carriers throughout the State are currently required to abide by this conservation measure pursuant to the FCC's Order. Commission review of carriers' number utilization data, filed biannually with the NANPA, is necessary to ensure that these conservation measures are being followed.
6. In addition, the FCC's Order grants state commissions the authority to investigate and determine whether code holders have “activated” NXXs assigned to them within 60 days of the expiration of a six-month activation deadline. The FCC defined the placing of an NXX code “in service” as to mean not just activation of the code through transmission of the local routing information to the Local Exchange Routing Guide (“LERG”), but also that the carrier has begun to

activate and assign to end users numbers within the NXX code. NRO Order at par. 240. In doing so, the FCC concluded, "Reclamation and reuse of unused NXX blocks is a numbering optimization measure that may be one of the quickest and easiest measures to implement. Reclaiming NXX codes that are not in use may serve to prolong the life of an area code because these codes are added to the total inventory of assignable NXX codes in the area code." Id. at par. 237. Review of carrier telephone number utilization data is necessary in order for the Commission to investigate and determine whether code holders have "activated" NXXs assigned to them within 60 days of the expiration of a six-month activation deadline, and order the reclamation of NXX codes and thousand blocks in the possession of wireline and wireless carriers that have not been so activated. By permitting CUB and other GCI representatives to review the data, the Commission will have the assistance it may need to complete the numerous analytical tasks it now faces in monitoring the industry's use of telephone numbers. In short, CUB and the other GCI representatives can play a key role in providing the information the ICC needs to determine whether the telephone number supply in the 815 NPA is being efficiently utilized, and whether representations that exhaust is imminent are in fact true.

7. The FCC's NRO Order also provides that state commissions may request and receive from the NANPA information such as carriers' applications for initial or growth numbering resources, as long as such data is treated as confidential. NRO Order at par. 82. In doing so, the FCC implicitly recognized the usefulness

of such data in assisting state commissions with monitoring carrier adherence to number conservation and pooling initiatives. Accordingly, GCI requests that the ICC obtain from the NANPA and the Number Pooling Administrator, and provide to CUB, information regarding carrier applications for NXXs (blocks of 10,000 phone numbers) or thousand-blocks, once number pooling is implemented. Specifically, the ICC should request that NANPA and the Number Pooling Administrator notify this Commission any time a carrier requests numbering resources for the 815 NPA, and any backup NPA implemented as a result of this docket.

8. In the recent past, the Commission Staff and GCI representatives received carrier number utilization and forecast data pursuant to the Commission-issued subpoenas duces tecum and an executed protective order that prohibits public disclosure of the data in ICC Docket Nos. 97-0192/97-0211², 98-0497³ and 98-0847⁴. Accordingly, the FCC's interest in keeping individual carrier number utilization data confidential has been met, and will continue to be met if GCI representatives are permitted access to the data. Although the FCC decision focuses on state commissions' access to the sensitive data, nowhere does it

² *Citizens Utility Board -- Petition to Implement a form of telephone number conservation known as number pooling within the 312, 773, 630, 708 and 847 area codes*, ICC Docket No. 97-0192/ *Illinois Bell Telephone Company -- Petition for Approval of an NPA Relief Plan for the 847 NPA*, ICC Docket No. 97-0211 (consolidated) ("Number Pooling and Conservation Order"), Order of May 11, 1998 at 23, 24.

³ *Illinois Commerce Commission, On Its Own Motion vs. All Telecommunications Carriers holding 847 NXX Codes and Illinois Bell Telephone Company in its Capacity as Number Administrator—Investigation into Issues Relating to the Exhaustion of Telephone Numbers in the Chicago Metropolitan area*, ICC Docket No. 98-0497.

⁴ *NeuStar, Inc. -- Petition for Approval of NPA Relief Plans for the 312, 630, 708 and 773 NPAs*, ICC Docket No. 98-0847,

specifically preclude parties that have intervened in Commission-docketed proceedings and signed protective agreements from obtaining access to carrier-specific number utilization data.

9. The importance of GCI representatives still obtaining access to the quarterly reports filed by the 815 NPA carriers cannot be underestimated. CUB initiated the petition requesting implementation of number conservation and number pooling in the Chicago-area NPAs. See Order of May 11, 1998, ICC Docket No. 97-0192, 97-0211 ("Number Pooling and Conservation Order"). CUB designed the number pooling and conservation initiatives that served as the model for the national plan established in the FCC's Number Optimization Order. Perhaps most importantly, CUB is the only party to date to have conducted a number utilization study that served as the basis for the implementation of number pooling and number conservation in Illinois. See Number Pooling and Conservation Order at 21.

10. In addition, CUB has repeatedly met with Commission Staff and worked hand-in-hand to assist the Staff in the monitoring of carrier compliance with ICC number pooling and conservation mandates instituted for the Chicago area. Earlier this year, Staff representatives requested that CUB Associate Director Seamus Glynn, CUB's expert and witness in the Commission number administration proceedings, accompany them on a California meeting with NeuStar, Inc., the NANPA and Illinois number pooling administrator, in order to

assess carrier compliance with Commission-issued number conservation and pooling directives. In short, CUB has played a vital role in the Illinois commission's implementation of number pooling and conservation, and its attempt to forestall the exhaust of Chicago-area NPAs.

11. CUB and the other GCI representatives are prepared to sign the Protective Order attached to this Motion, which is comparable to the one issued by the Commission in ICC Docket No. 98-0847. GCI representatives will abide by the agreement to ensure that the carrier-sensitive data is not released to the public. In short, GCI representatives have done all that the FCC requires in terms of maintaining the confidentiality of carrier-specific number utilization and forecast data. Nothing in the Number Optimization Order precludes GCI representatives who have signed an existing Protective Order from obtaining the data from the Commission Staff.

12. As noted above, GCI seeks access to this information in order to assess the state of actual number utilization in the 815 NPA, and any backup NPA established as a result of this docket, to assist the Commission in monitoring carrier compliance with FCC-ordered number conservation directives issued in the NRO Order.

13. GCI requests that the ICC Staff provide CUB with the same disaggregated, carrier specific data that the NANPA provides to the ICC and that this data be

provided to CUB in the same electronic format that NANPA uses to provide the data to the ICC. We request that the ICC order, at this time, that the first data set required by the FCC to be filed by carriers on September 15, 2000 be provided immediately. Also, we request that subsequent semi-annual filings be provided to CUB as soon as the data is made available to the ICC by the NANPA and for as long as this docket remains open.

14. While other GCI, representatives seek the ability to review the raw data and any number utilization study resulting from CUB's review of the raw data, they do not seek to have separate copies of the data forwarded to their offices.

Accordingly, only one copy of the data need be forwarded to GCI. Data received from the Commission Staff would be mailed to the following individuals at the following address:

J. Seamus Glynn
Karen Lusson
Citizens Utility Board
208 S. LaSalle, Ste. 1760
Chicago, IL 60604


15. As noted above, time is of the essence in assisting the Commission in its analysis of the number utilization data relevant to this docket. Accordingly, GCI seeks direct Commission review of this Motion.

WHEREFORE, Governmental and Consumer Intervenors respectfully request that the Commission grant GCI representatives access to the semi-annual thousand-block utilization and forecast data for the 815 NPA, and any backup NPAs created as a

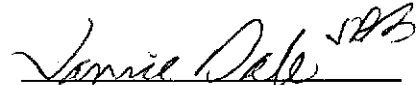
result of this docket, that carriers are required under the NRO Order to provide to the NANPA and in the possession of the Commission Staff, as well as information regarding carrier applications for NXXs and thousands blocks.

Respectfully submitted,

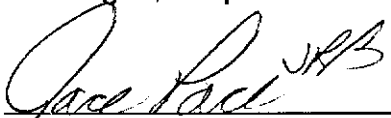
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STATE OF ILLINOIS
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NeuStar, Inc.

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ICC Docket No. 00-0475

NOTICE OF FILING

TO: (see attached service list)

Please take note that on October 30, 2000, the Citizens Utility Board ("CUB"), by and through its attorneys; the People of the State of Illinois, *ex rel.* James E. Ryan, Attorney General of the State of Illinois and the City of Chicago, by and through its attorney, Mara S. Georges, Corporation Counsel ("Government and Consumer Intervenor" or "GCI"); electronically filed a Motion to Obtain Access to Telephone Number Utilization Data in the above-captioned proceeding to the Chief Clerk of the Illinois Commerce Commission, Donna Caton, 527 E. Capitol Ave., Springfield, Illinois 62701.

Dated: October 30, 2000

By:



Karen L. Lusson

CERTIFICATE OF SERVICE

I, Karen L. Lusson, certify that the foregoing documents, together with a notice of filing, were sent to all parties of record listed on the attached service list by United States Parcel Service – overnight delivery for receipt on October 30, 2000, hand-delivered, United States mail, proper postage prepaid, electronic mail or facsimile on October 30, 2000.


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